1949. File No. O.L.A. Loans 49

Legal Department

A BRANCH

Subject:— Opinions under the Local Authorities Loans Act 1914.

17 5 (E)

File No. O.L.A. Loans 149

Gen. 194

507 A

C O N T E N T S.

Legal Department File No. C.L. A. Loans./49.

Sr. No.	P.I./ O. No.	Subject.	Pages.
		Opinions under the Local Authorities Loans Act, 1914.	
1.	O. No. 4633. 3.5.1949	Section 7 Loan advanced by Government to Parle-Andheri Municipality.	-2
	O. No. 7649. 5.7.1949.	Section 3(1)(i) Whether a Municipality can be granted a loan under this Act for running its day-to-day administration	3-4.
	O. No. 6280 6.6.1949.	Section 3(1)(i) Whether a loan to be granted to a Municipality to pay its primary teachers the arrears of pay and allowances would fall within the scope of the word 'works' in section 3(1)(i)	5-10.

V.M.D./6-6
4c.

Office of the E.L.A.

Loan advanced by Government to Parle-Andheri Municipality.
.....
The Local Authorities Loans Act, 1914.
.....
Compliance with the provision of

The Legal position as contained in section 7 makes it clear that Government will have no remedy against the Municipal funds even for interest unless the loan is effected as provided by the Local Authorities Loans Act, 1914, and the rules made thereunder. However, the loan has been already advanced by Government to the Municipality. From the conditions attached to the loan it appears that it is in the nature of an advance payment of Government grants to the Municipality subject to the payment of interest for the period until the grants become due. It is, therefore, a matter of policy for Government to decide whether strict compliance with the provisions of the Local Authorities Loans Act, 1914 and the Rules thereunder should be insisted upon.

Sd/- P.M.Lad.
S.O
Remembrancer of Legal Affairs.

U.R. to H. & L. G. Deptt. No. S 4833 , dated the 3rd May, 1949.

V.M.D./6-6
4c.

Office of the R.L.A.

From the letter of the President, Jambusar Municipality dated 24.12.1948 and the H. & M.L.S.D. office note dated 1.7.49 it appears that the Municipality requires financial assistance to run its day-to-day administration. From the H & L.S.D. letter No. S- 164/12999-A, dated 8.4.1949, it appears that Government is prepared to grant the loan to the Municipality for the said purpose and not for carrying out any works which it is legally authorised to carry out or for any relief works under section 3(1) of the Act. Attention is invited to Remembrancer of Legal Affairs opinion No. 6800, dated 5.6.1949. The proposed loan of Rs. 12,000/- to the Jambusar Municipality for the purpose of running its day-to-day administration, will not be authorised under the Local Authorities Loans Act, 1914. A loan can, however, be given for construction of 'works' referred to in the Collector's letter No. F.A.M/ dated 4.1.1949, which are in the nature of relief works.

Sd/- P.M.Lad.
8-7
Remembrancer of Legal Affairs.

U.R. to H & L.S.D. No. 7649 , dated the 9th July 1949.

V.M.D./ 8-6
4c.

Office of the R.L.A.

Local Authorities Loans Act 1914, (IX of 1914) section 8.

In order to enable the Bandra Municipality (which is an authorised Municipality) to pay its primary teachers the arrears of pay and allowances prescribed by Government the Education and Industries Department proposes to advance a sum of Rs. 60,000/- to the said Municipality. The question for R.L.A's consideration is whether such a loan would fall within the scope of ~~xx~~ the word "works" in clause (i) of sub-section(1) of section 3 of the Local Authorities Loans Act, 1914.

Under section 7 of the Local Authorities Loans Act, except as provided by or under the Act, no local authority shall, for any purpose, borrow money upon or otherwise charge its funds, and any contract otherwise made for that purpose after the passing of the Act shall be void etc. A Municipality being a statutory body corporate can therefore take a loan only in accordance with the provisions of the Local Authorities Loans Act. The various purposes for which a local authority is competent to borrow money are specified in clauses (i) to (v) of sub-section (1) of section 3. Under clause (i) of section 3(1) the money can be borrowed for the purpose of carrying out any works which it is legally authorized to carry out. The term "loan" as defined in rule 2(8) of Bombay Local Authorities Loans Rules, 1923, means a loan made, taken or raised under the Act and includes a loan for the payment of the cost of carrying out a work under sub-section (1) (i) of section 3 of the Act. Under rule 3, a local authority shall not borrow money for any of the purposes specified in clause

(i),(ii),(iii) or (iv) of section 3(1) unless the work to be carried out is either -

(a) within the local limits of the area subject to the control of the Local Authority, or

(b) for the benefit of the inhabitants within those limits.

Under rule 4, when a local authority desires obtain a loan, it shall submit an application to the Provincial Government showing-

(1) the purpose for which the loan is required, and where the loan is required for any of the purposes specified in clauses (i) and (iv) of section 3(1) an estimate of the cost of the entire work or such other part of it as it is proposed to carry out from local funds. Rule 18 provides for the control and inspection of the works to be constructed by the local bodies. The term "work" as defined in section 2 of the Act includes a survey, whether incidental to any other work or not. This is an inclusive definition and does not affect its ordinary dictionary meaning. It is not very easy to say exactly what is meant by "works". From the provisions referred to above, it appears that the term "works" is intended to refer to some constructions mamah such as roads, buildings, drainage or water works to be carried out by the local authority. The term 'works' is used in technical sense and cannot be extended to include within its scope payment of arrears

pay and allowances to primary teachers of a local authority.

Sd/-.P.N.Lad.
4-6
Remembrancer of Legal Affairs.

U.R. to M.& I.D. No. 6880 , dated the 6th June 1949.

V.M.D./6-6
49.